

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JOHN E. MILLER,	§	
	§	No. 448, 2010
Defendant Below,	§	
Appellant,	§	Court Below—Superior Court
	§	of the State of Delaware in and
v.	§	for New Castle County
	§	
STATE OF DELAWARE,	§	
	§	
Plaintiff Below,	§	Cr. ID No. 9712003463
Appellee.	§	

Submitted: September 14, 2010

Decided: December 9, 2010

Before **BERGER, JACOBS** and **RIDGELY**, Justices.

ORDER

This 9th day of December 2010, it appears to the Court that:

(1) In April 1998, the appellant, John E. Miller, pled guilty to Robbery in the First Degree and was sentenced to thirty years in prison. In 1999, Miller's conviction and sentence were affirmed by this Court on direct appeal.¹

¹ *Miller v. State*, 1999 WL 636623 (Del. Supr.).

(2) Over the past ten years, Miller has filed numerous motions and petitions for relief, all of which unsuccessfully challenged his 1998 guilty plea and/or sentence. By Order dated May 5, 2009, when affirming the Superior Court's denial of his twelfth motion for postconviction relief, this Court found that “Miller's excessive and repetitive filings constitute an abuse of the [judicial] processes.”² The Court enjoined Miller from filing future claims and directed the Clerk that “no future filings by Miller in connection with his April 1998 guilty plea shall be docketed unless first reviewed and approved for filing by a Justice of this Court.”³

(3) On July 19, 2010, Miller filed this appeal from the Superior Court's July 6, 2010 denial of his fourteenth motion for postconviction relief. Miller did not seek leave to file the appeal, and the Clerk inadvertently did not submit Miller's appeal for review and approval for filing as contemplated by the Court's May 5, 2009 Order.

(4) Miller now seeks an extension of time to file the opening brief and/or the appointment of counsel in this appeal. The appellee, State of Delaware, opposes Miller's requests, stating that “[n]o reason exists to expend more judicial resources to litigate Miller's guilty plea to a 1997 bank

² *Miller v. State*, 2009 WL 1204622 (Del. Supr.).

³ *Id.*

robbery.” Moreover, the State asks the Court to “enforce its May 5, 2009 order.” The State’s request is well-taken.

(5) Having conducted a preliminary review of Miller’s appeal, the Court has concluded that the appeal is based on a postconviction application that was both repetitious and frivolous; the grounds for relief have been previously raised and rejected by the Superior Court as well as by this Court.⁴ Applying the dictates of our Order of May 5, 2009, the Court has determined, *nunc pro tunc*, that the appeal is not approved for filing.

NOW, THEREFORE, IT IS ORDERED that the appeal papers are STRICKEN, and this matter is DISMISSED, *sua sponte*, pursuant to Supreme Court Rule 29(c).

BY THE COURT:

/s/ Jack B. Jacobs
Justice

⁴ Miller’s fourteenth postconviction motion asserted the following grounds for relief: “invalid/misleading indictment,” “inaccurate plea,” “insufficient plea colloquy,” and “ineffective assistance of counsel.” In its summary dismissal order of July 6, 2010, the Superior Court concluded that the grounds for relief had been previously addressed and denied Miller’s fourteenth postconviction motion as “untimely, repetitive and having been previously adjudicated.”